

Disciplinary and Other FINRA Actions

Firms Fined, Individuals Sanctioned

Midas Securities, LLC (CRD #103680, Anaheim, California) and Jay S. Lee (CRD #4338187, Registered Principal, Anaheim Hills, California) submitted Offers of Settlement in which the firm was censured and fined \$15,000. Lee was fined \$15,000 and suspended from association with any FINRA member in any capacity for 45 days. Without admitting or denying the allegations, the firm and Lee consented to the described sanctions and to the entry of findings that they failed to update Lee's Uniform Application for Securities Industry Registration or Transfer (Form U4) with material information.

The suspension in any capacity is in effect from October 6, 2008, through November 19, 2008. **(FINRA Case #2005000075703)**

Sloan Securities Corp. (CRD #17930, Fort Lee, New Jersey) and James Curtis Ackerman (CRD #1641924, Registered Principal, Demarest, New Jersey) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$65,000. Ackerman was fined \$35,000, suspended from association with any FINRA member in any principal capacity for three months and suspended from association with any FINRA member in any capacity for 10 business days. The suspensions were to run concurrently. Ackerman was also ordered to requalify by examination as a general securities principal by passing the Series 24 examination within 60 days of the end of the three-month suspension. If Ackerman fails to pass the examination, he may not perform any functions requiring principal registration until such time as he passes the required examination.

Without admitting or denying the findings, the firm and Ackerman consented to the described sanctions and to the entry of findings that the firm, acting through Ackerman, allowed a registered representative to act as an unregistered principal of a branch. The findings stated that the firm, acting through Ackerman, failed to establish, maintain and enforce a supervisory system and written procedures to supervise the activities of registered members to achieve compliance with applicable rules and regulations regarding markups/markdowns, commission charges, municipal securities and private securities transactions, outside business activities, Securities and Exchange Commission (SEC) Regulation SP, sale of private placements, free-riding and withholding, advertising and sales literature, and the Regulatory Element of the Continuing Education Requirement. The findings also stated that the firm, acting through

Reported for November 2008

FINRA has taken disciplinary actions against the following firms and individuals for violations of NASD rules; federal securities laws, rules and regulations; and the rules of the Municipal Securities Rulemaking Board (MSRB).

Ackerman, failed to enforce its supervisory system and written procedures regarding the securities activities of a branch office so that the firm failed to provide for supervision of that branch's registered representatives, particularly with respect to suitability of unregistered securities. The findings also included that, in connection with its branch office inspections, the firm, acting through Ackerman, failed to prepare a written inspection report that included the testing and verification of its policies and procedures regarding the safeguarding of customer funds and securities, validation of customer address changes, transmittal of funds and other areas. The firm also failed to establish or enforce procedures for a registered principal to review business-related electronic correspondence in one of its branch offices. FINRA found that the firm, acting through Ackerman, failed to designate and specifically identify to FINRA one or more principals to establish, maintain and enforce a system of supervisory control policies and procedures and, therefore, failed to establish procedures providing for the review and supervision of customer account activity conducted by branch office managers, sales managers or other supervisory persons. FINRA also found that the firm failed to establish procedures reasonably designed to provide heightened supervision over the activities of each producing manager responsible for generating 20 percent or more of the revenue of the business units supervised by the producing manager's supervisor.

In addition, FINRA determined that, in connection with a transaction in which the firm received approximately \$350,000 in customer funds to purchase shares of an unregistered stock, the firm failed to establish and maintain a Special Reserve Bank Account for the Exclusive Benefit of Customers, prepare computations to determine the amount of funds and/or qualified securities needed to be deposited in the reserve account, and make the required deposit of funds and/or qualified securities to the account. Moreover, FINRA determined that the firm failed to accurately post the receipt and payment of customer funds in its general ledger. Furthermore, FINRA found that in connection with a contingent private offering in which it was seeking to raise \$60 million as a placement agent, the firm, acting through Ackerman, caused the release of public customer funds from escrow before the satisfaction of the contingency, contrary to the terms of the offering. The findings included that the firm failed to maintain a Checks Received and Forwarded Blotter in a branch office, and that order tickets for equity, corporate bond and municipal securities transactions contained deficiencies. The findings also included that the firm failed to file summary and statistical information with FINRA for customer complaints.

The suspension in any principal capacity is in effect from October 6, 2008, through January 5, 2009. The suspension in any capacity was in effect from October 6, 2008, through October 17, 2008. **(FINRA Case #E9B2005014202)**

QA3 Financial Corp. (CRD #14754, Omaha, Nebraska) and Theodore Aaron Lange Sr. (CRD #301984, Registered Principal, San Marcos, California) submitted Letters of Acceptance, Waiver and Consent in which the firm was censured and fined \$15,000. Lange was fined \$10,000 and suspended from association with any FINRA member in any principal capacity for 15 business days. The fine must be paid either immediately upon Lange's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings,

the firm and Lange consented to the described sanctions and to the entry of findings that the firm and Lange failed to adequately supervise a registered representative who conducted a private offering; permitted funds to be released to the issuer prior to the minimum contingency being met; and did not send timely notice and reconfirmation to public customers in order to extend the offering period. The findings stated that the representative did not set up a proper escrow account for the offering and allowed the funds in the account to be invested in impermissible investments. The findings also stated that Lange participated in the offering and was aware of developments in the offering

The suspension was in effect from October 6, 2008, through October 24, 2008. (FINRA Cases #2006007353801/2006007353803)

Firms Fined

Alterna Capital Corp. (CRD #130233, Fort Lauderdale, Florida) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$48,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it served as the placement agent for contingency offerings and, acting at the direction of its former principal, prematurely disbursed investor funds from escrow before the contingencies had been satisfied through *bona fide* investments, thereby rendering the offering memoranda false and misleading. The findings stated that the firm failed to designate a licensed Limited Principal – Introducing Broker/Dealer Financial and Operations (FINOP) or open a window for a designated replacement for a three-month period. (FINRA Case #2006006316002)

Calyon Securities (USA) Inc. (CRD #190, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$15,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it transmitted inaccurate data to the Order Audit Trail System (OATS). The findings stated that it submitted limit orders with a limit order display indicator of “Y” (Yes), which indicated that it had received instructions from public customers that a non-block limit order should not be displayed, when no such instructions had been received. (FINRA Case #2007008917101)

Credit Suisse Securities (USA) LLC (CRD #816, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$200,000 and ordered to pay \$193,023, plus interest, in restitution to customers. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it sold corporate bonds to customers and failed to sell the bonds at a price that was fair, taking into consideration all relevant circumstances, including market conditions with respect to each bond at the time of the transaction, the expense involved and that the firm was entitled to a profit. (FINRA Case #2006004268901)

Edward D. Jones & Co., L.P. (CRD #250, St. Louis, Missouri) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$10,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to report to the Trade Reporting and Compliance Engine (TRACE) transactions in TRACE-eligible securities within 15 minutes of execution time. **(FINRA Case #2006006054601)**

Ferris, Baker Watts Incorporated (CRD #285, Baltimore, Maryland) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$48,500 and required to pay \$224.80, plus interest, in restitution to customers. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that in transactions for or with customers, it failed to use reasonable diligence to ascertain the best inter-dealer market and buy or sell in such market so that the resultant price to its customers was as favorable as possible under prevailing market conditions. The findings stated that the firm accepted short sale orders in equity securities from another person, or effected short sales in equity securities for its own account, without having reasonable grounds to believe that the securities could be borrowed so that they could be delivered on the date delivery is due. FINRA also found that the firm failed to provide written confirmations disclosing to customers the correct mark-up and an accurate price. The findings stated that the firm failed to show the correct order entry time on brokerage order memoranda. The findings also stated that the firm failed to report to the NASD/Nasdaq Trade Reporting Facility (TRF) the correct symbol indicating whether the transaction was a buy, sell, sell short, sell short exempt or cross. Further, the findings included that the firm transmitted to OATS inaccurate, incomplete or improperly formatted data, in that data were reported in non-military time, rather than the required military time. FINRA also found that the firm made available a report that included incorrect order information about the covered orders in national market system securities that it received for execution. In addition, the findings stated that the firm failed to represent customer order interest in the firm's quotations and failed to timely and accurately report its short interest positions to NASD (now known as FINRA). The findings also stated that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws, regulations and FINRA rules concerning short interest reporting. The findings also included that the firm failed to report transactions in TRACE-eligible securities to TRACE within 15 minutes of execution time. **(FINRA Case #2005003223401)**

Fig Partners, LLC (CRD #41554, Atlanta, Georgia) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$10,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to properly process orders for equity securities resulting in it executing short sale orders while failing to properly mark the orders as short; executing a long sale order while failing to properly mark the order as long; and failing to report the correct symbol indicating whether executed transactions were buy, sell, sell short or cross for transactions in reportable securities to the TRF. The findings stated that the firm transmitted reports to OATS that contained inaccurate, incomplete or improperly formatted data. **(FINRA Case #2006006727701)**

Goldman, Sachs & Co. (CRD #361, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$12,500. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it inaccurately reported the second leg of “riskless” principal transactions in designated securities to the TRF because it inaccurately designated the capacity of the transactions as “principal.” The findings stated that the firm transmitted reports to OATS that contained inaccurate, incomplete or improperly formatted data. **(FINRA Case #2007010225101)**

Granta Capital Group LLC fka Sky Capital LLC (CRD #114657, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$100,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to preserve copies of all electronic mail communications for three years, and/or maintain electronic mail communications for the first two years in an accessible place, as required by Section 17(a) of the Securities Exchange Act of 1934. **(FINRA Case #E102003193001)**

Hapoalim Securities USA, Inc. (CRD # 266, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$15,000 and required to revise its written supervisory procedures regarding registration and continuing education, best execution and sales transactions. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it transmitted reports to OATS that contained inaccurate, incomplete or improperly formatted data. The findings stated that the firm failed to provide written notification disclosing its correct capacity in transactions to its customers; and executed short sale orders and failed to properly mark the orders as short. The findings also stated that the firm failed to show the correct entry time on brokerage order memoranda. The findings also included that the firm’s supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws, regulation and/or FINRA rules addressing registration and continuing education, best execution and sales transactions. FINRA also found that the firm failed to provide documentary evidence that it performed supervisory reviews set forth in its supervisory procedures concerning best execution, anti-intimidation and coordination, trade reporting and sales transactions. **(FINRA Case #2006005174801)**

INTL Trading, Inc. (CRD #45993, Altamonte Springs, Florida) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$40,000, ordered to pay \$105, plus interest, in restitution to customers, and required to revise its written supervisory procedures regarding best execution, order handling, trade reporting and other trading rules. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to report to the NASDAQ Market Center (NMC) the correct symbol indicating whether it executed transactions in reportable securities in a principal or agency capacity. The findings stated that the firm incorrectly reported the second leg of “riskless” principal transactions as “principal” to the NMC and failed to partially execute customer limit orders within five minutes of activation. The findings also stated that the firm’s supervisory system did not provide for supervision reasonably designed to achieve

compliance with applicable securities laws, regulations and/or FINRA rules concerning best execution, order handling, trade reporting and other trading rules. The findings also included that the firm failed to provide documentary evidence that it performed supervisory reviews set forth in its written supervisory procedures concerning order handling, best execution, trade reporting and other trading rules.

FINRA found that the firm traded NASDAQ securities for its own account at prices that would have satisfied an open customer market order without giving the customer orders a contemporaneous fill or partial execution either at the same or better price. **(FINRA Case #2006003972401)**

Intrade, LLC (CRD #104047, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$15,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to report its short interest positions to NASD, nka FINRA, for more than a year. The findings stated that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws, regulations and FINRA rules concerning short interest reporting. **(FINRA Case #2005001700601)**

Merrill Lynch, Pierce, Fenner & Smith Inc. (CRD# 7691, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$242,500, and ordered to pay \$11,358.65, plus interest, in restitution to customers. The firm was also required to revise its written supervisory procedures regarding TRACE, OATS, trade reporting, short sales and Regulation SHO, trading during a trading halt, mixed capacity trading, compliance with the safe harbor requirements of Section 28(e) of the Securities Exchange Act of 1934 (Exchange Act), recordkeeping, limit order protection, the one-percent rule, the three-quote rule, best execution, multiple market participant identifiers (MPIDs), third-party trade reporting and market order protection.

Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that, in transactions for or with a customer, it failed to use reasonable diligence to ascertain the best inter-dealer market and failed to buy or sell in such market so that the resultant price to its customers was as favorable as possible under prevailing market conditions; reported Route or Combined Order/Route Reports to OATS that OATS was unable to link to the related order due to inaccurate, incomplete or improperly formatted data; and submitted reportable order events (ROEs) to OATS that OATS rejected and the firm failed to repair them. The findings stated that the firm failed to report the correct contra-party identifier for transactions in TRACE-eligible securities to TRACE and reported transactions in TRACE-eligible securities it was not required to report. The findings stated that the firm failed to contemporaneously or partially execute customer limit orders in NASDAQ securities after it traded each security for its own market-making account at a price that would have satisfied each customer's limit order; failed to report, or timely report, the cancellation of trades previously submitted to NASDAQ or the OTC Reporting Facility; incorrectly reported the second leg of "riskless" principal transactions to the NMC, the TRF and the OTC Reporting Facility; failed to report the correct symbol indicating whether it executed transactions in reportable securities in a principal or agency

capacity to the NMC; failed to report the correct symbol indicating whether transactions were buy, sell, sell sort, sell short exempt or cross in reportable securities to the NMC; and failed to report the correct execution time for transactions in reportable securities to the NMC.

The findings also stated that the firm failed to provide written notification disclosing to its customers that transactions were executed at an average price or its executing capacity in a transaction; and failed, within 90 seconds after execution, to transmit last sale reports of transactions in designated securities to the NMC. The findings also included that the firm failed to timely report information regarding transactions effected in municipal securities to the Real-time Reporting System (RTRS) and improperly reported information to the RTRS that it should not have reported. FINRA found that the firm incorrectly designated last sale reports of transactions in designated and eligible securities as ".PRP" to the NMC; failed to submit, or submitted inaccurate, reports to OATS; when it acted as principal for its own account, failed to provide written notification disclosing to its customers the correct reported trade price, the correct capacity in which the firm acted and that a transaction was executed at an average price. FINRA also found that the firm failed to show terms and conditions, correct execution time and a correct account number on brokerage order memoranda, and failed to preserve for a period of not less than three years, the first two in an accessible place, brokerage order memoranda. In addition, FINRA determined that the firm failed to properly mark short sale orders; incorrectly designated last sale reports of designated securities transactions as ".W" to the TRF; and failed to report last sale reports of transactions in designated securities to the TRF.

Moreover, FINRA determined that the firm's supervisory system did not provide for supervision designed to achieve compliance regarding TRACE, OATS, trade reporting, short sales and Regulation SHO, trading during a trading halt, mixed capacity trading, compliance with the safe harbor requirements of Section 28(e) of the Exchange Act, recordkeeping, limit order protection, the one-percent rule, the three-quote rule, best execution, MPIDs, third-party trade reporting, and market order protection. **(FINRA Case #2005000036701)**

National Bank of Canada Financial Inc. (CRD #22698, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$15,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to report its short interest positions to NASD (nka FINRA). **(FINRA Case #2005001700701)**

Northern Trust Securities, Inc. (CRD #7927, Chicago, Illinois) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$15,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to timely report transactions in TRACE-eligible securities. The findings stated that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws, regulations and FINRA rules concerning TRACE reporting. **(FINRA Case #2006006834201)**

Oppenheimer & Co. Inc. (CRD #249, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$12,500. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to provide written notification disclosing to its customers its correct capacity in transactions. The findings stated that the firm transmitted reports to OATS, in which the firm reported “riskless” principal orders to OATS without using the correct reporting exception code. The findings also stated that the firm made available a report on the covered orders in national market system securities that it received for execution from any person that included incorrect order information for the orders entered. **(FINRA Case #2006005739601)**

OTA LLC (CRD #25816, Purchase, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$45,000 and required to revise its written supervisory procedures regarding short sale affirmative determination, the firm’s supervisory system and qualification of supervisory personnel, SEC Rule 606 under Regulation NMS, statutory market making, the three-quote rule, trade reporting, short sale reporting, trading halts, entering quotations in multiple systems, multiple MPIDs, best execution, OATS, Regulation SHO, and anti-competitive practices. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it effected short sales in securities for its proprietary account(s) and failed to make/annotate an affirmative determination that it could borrow the securities or otherwise provide for delivery of the securities by settlement date. The findings stated that the firm failed to report the correct symbol indicating whether it executed transactions in reportable securities in a principal or agency capacity to the TRF. The findings also stated that the firm failed to provide written notification disclosing to its customers its correct capacity in transactions, and failed to provide written notification disclosing to its customers that the transactions were executed at an average price. The findings also included that the firm failed to show the cancellation time, the correct execution time, the terms and conditions and the correct entry time on brokerage order memoranda.

FINRA found that the firm failed to preserve brokerage order memoranda for not less than three years, the first two in an accessible place. FINRA also found that the firm’s supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws, regulations and/or FINRA rules concerning short sale affirmative determination, the firm’s supervisory system and qualification of supervisory personnel, SEC Rule 606 under Regulation NMS, statutory market making, the three-quote rule, trade reporting, short sale reporting, trading halts, entering quotations in multiple systems, multiple MPIDs, best execution, OATS, Regulation SHO and anti-competitive practices. **(FINRA Case #2005000012501)**

Piper Jaffray & Co. (CRD #665, Minneapolis, Minnesota) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$167,500, ordered to pay \$6,758.78, plus interest, in restitution to customers, and required to revise its written supervisory procedures regarding recordkeeping and TRACE trade

reporting. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that, in its fixed income area, it failed to show the correct execution time on brokerage order memoranda; failed to show the entry time for orders that resulted in executions on brokerage order memoranda, and failed to create and maintain brokerage order memoranda for orders that did not result in executions. The findings stated that the firm failed to report the correct trade execution time for transactions in TRACE-eligible securities to TRACE and failed to report the correct number of bonds to TRACE when the bonds had a factor other than one for transactions in TRACE-eligible securities. The findings also stated that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws, regulations and FINRA rules concerning recordkeeping and TRACE trade reporting. The findings also included that, in transactions for or with customers, the firm failed to use reasonable diligence to ascertain the best inter-dealer market, and failed to buy or sell in such market so that the resultant price to its customers was as favorable as possible under prevailing market conditions. **(FINRA Case #2005000167502)**

Prager, Sealy & Co., LLC (CRD #21567, San Francisco, California) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$10,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to timely report information regarding transactions effected in municipal securities to the RTRS. **(FINRA Case #2007008993901)**

Raymond James & Associates, Inc. (CRD #705, St. Petersburg, Florida) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$1,000,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it permitted a person or entity not registered as a broker-dealer and who had been barred from the securities industry to perform duties that required registration. The findings stated that the firm permitted a person who was not registered with, qualified by or acceptable to the NYSE to regularly perform the duties customarily performed by a securities lending representative; compensated alleged finders in connection with stock loan transactions when the finders had not performed any services in connection with the transactions; and transmitted transaction-based compensation to an unregistered person or entity operating as an unregistered broker-dealer.

The findings stated that the firm failed to reasonably supervise or control certain of its business activities; provide for appropriate procedures of supervision and control; and establish a separate system of follow-up and review to determine that delegated authority and responsibility were being properly exercised. The findings also included that the firm failed to make and keep accurate records reflecting its stock loan activities. **(FINRA Case #2007009525901)**

Smith Hayes Financial Services Corp. (CRD # 17059, Lincoln, Nebraska) submitted a Letter of Acceptance Waiver and Consent in which the firm was censured and fined \$10,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it had policies and procedures regarding private offerings, including setting up an escrow account and releasing funds from the escrow account to the issuer, but failed to adequately implement its written procedures with respect to an offering. The findings stated that the firm did not follow its procedures regarding establishing an escrow account for the offering; monitoring the activities in the account; returning funds to investors when the minimum contingency was not met and calculating whether the minimum contingency amount had been met. **(FINRA Case #2006007353802)**

TD Professional Execution, Inc. (CRD #37554, Chicago, Illinois) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$40,000 and required to revise its written supervisory procedures regarding OATS reporting. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to timely report ROEs to OATS and failed to transmit required information to OATS. The findings stated that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws, regulations and FINRA rules concerning OATS reporting. **(FINRA Case #2006005509101)**

Track Data Securities Corporation (CRD #103802, Brooklyn, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$60,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it accepted customer short sale orders in securities, and for each order, failed to make/annotate an affirmative determination that the firm would receive delivery of the security on the customer's behalf, or that the firm could borrow the security on the customer's behalf for delivery by settlement date. The findings stated that on numerous occasions, the firm accepted short sale orders in an equity security from another person, or effected a short sale in an equity security for its own account, without borrowing the security or entering into a *bona fide* arrangement to borrow the security or having reasonable grounds to believe that the security could be delivered on the date delivery is due and documenting compliance with SEC Rule 203(b)(1) of Regulation SHO. The findings also stated that the firm failed to report the correct symbol indicating whether transactions were a buy, sell, sell short, sell short exempt or cross for transactions in reportable securities to the TRF. The findings also included that the firm made a report available on the covered orders in national market system securities that it received for execution from any person that included incorrect information as to classification of orders and inaccurate order statistics. FINRA found that the firm submitted Route or Combined Order/Route Reports to OATS that the OATS system was unable to link to the corresponding new order the destination member firm submitted due to inaccurate, incomplete or improperly formatted data. **(FINRA Case #2005001806301)**

Trustfirst, Inc. (CRD #39057, Knoxville, Tennessee) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$14,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it served as a placement agent in a private placement offering of equity and debenture securities. The findings stated that the offering was made without registration in reliance on the exemption from registration contained in SEC Rule 506 of Regulation D, which prohibits general solicitation or advertising in connection with such offerings. The findings also stated that, in soliciting sales of the securities, the firm mailed announcements of the offering to prospective investors; only some had a pre-existing relationship with the firm or the issuer at the time of the solicitation so that the offering constituted a general solicitation. The findings also included that, in failing to comply with Regulation D requirements, the firm's sales of the unregistered securities were in contravention of Section 5 of the Securities Act of 1933. **(FINRA Case #2007007423401)**

Wedbush Morgan Securities, Inc. (CRD #877, Los Angeles, California) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$22,500. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it made available a report on the covered orders in national market system securities that it received for execution from any person in which the firm failed to properly classify an order and the firm published incorrect order execution information. The findings stated that the firm reported execution reports to OATS that contained inaccurate, incomplete or improperly formatted data. The findings also stated that the firm failed to show the correct entry time on brokerage order memoranda and the correct execution price on a brokerage order memorandum. The findings also included that the firm failed to prepare and maintain a proprietary trading ledger reflecting firm-wide positions on a real-time basis. FINRA found that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws, regulations and FINRA rules relating to SEC Rule 606, "regular and rigorous" reviews of orders routed to and executed by other parties and trading halts. **(FINRA Case #2006005288101)**

Wedbush Morgan Securities, Inc. (CRD #877, Los Angeles, California) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$24,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to immediately display customer limit orders in NASDAQ securities in its public quotation when each order was at a price that would have improved the firm's bid or offer in each security; or when the order was priced equal to the firm's bid or offer and the national best bid or offer for each security, and the size of the order represented more than a de minimis change in relation to the size associated with the firm's bid or offer in each security. The findings stated that the firm failed, within 90 seconds after execution, to transmit last sale reports of transactions in NASDAQ securities through the TRF. The findings also stated that the firm incorrectly designated last sale reports of transactions in NASDAQ securities reported to the TRF within 90 seconds of execution as "SLD". The findings also included that the firm failed to timely report information regarding transactions effected in municipal securities to the RTRS. **(FINRA Case #2006004292301)**

Individuals Barred or Suspended

Timothy Luke Allen (CRD #2348806, Registered Principal, Boca Raton, Florida) submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Allen consented to the described sanction and to the entry of findings that he obtained and used customer funds totaling \$704,315 from a private placement offering for personal and business expenses without authorization, and did not immediately repay the funds. **(FINRA Case #2006006316001)**

John Douglas Audifferen (CRD #2053214, Registered Representative, Brooklyn, New York) was fined \$9,665, ordered to pay \$7,835 in restitution to a public customer and barred from association with any FINRA member in any capacity. The SEC affirmed the sanctions following appeal of a NAC decision. The sanctions were based on findings that Audifferen willfully caused his member firm to extend credit impermissibly to a public customer's cash account and willfully benefited from his firm's extension of credit to the customer. The findings stated that Audifferen personally extended credit to the customer and impermissibly shared in the profits generated in the customer's account, causing his firm to free ride in the customer's cash account in violation of Regulation T. The findings also stated that Audifferen willfully caused his firm to extend credit impermissibly in his own cash and margin accounts by paying for his securities purchases with checks that were returned for insufficient funds, thereby willfully causing his firm to violate Regulation T. The findings also included that Audifferen failed to disclose a customer complaint on his Form U4. **(FINRA Case #C1020030095)**

Michael Joseph Becker (CRD #4323217, Registered Principal, Farmingville, New York) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$10,000, barred from association with any FINRA member as an equity trader, and suspended from association with any FINRA member in any capacity for 60 calendar days. Without admitting or denying the findings, Becker consented to the described sanctions and to the entry of findings that he was responsible for trading in proprietary accounts at his member firm. He traded directly with a market maker or through an electronic communications network, but settlement was handled by a clearing firm. The findings stated that while the contra parties received securities or monies due, if there was a trade break settlement of the firm's positions would be delayed until the trade break was resolved. Becker was responsible for responding to trade breaks and was reckless in his approach to the trade breaks because he repeatedly made entries on the clearing firm's systems that did not properly resolve the breaks and settle the trades. The findings also stated that while Becker's entries removed the trade break from his computer screen, they failed to result in a final settlement in his firm's account and would reappear when his new entries again failed to match the contra party's entries. The findings also included that a new clearing firm identified the unsettled trades and sought payment from Becker's firm; but when the firm did not pay, the clearing firm liquidated the unsettled positions, causing the firm to cease its business operations when it could not remit the approximately \$3 million dollars owed to the clearing firm.

The suspension in any capacity is in effect from October 20, 2008, through December 18, 2008. **(FINRA Case #ELI2003041302)**

Bryan Scott Behrens (CRD #1246183, Registered Principal, Omaha, Nebraska) submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Behrens consented to the described sanction and to the entry of findings that, while selling notes relating to an entity he controlled, he failed to disclose to investors that funds from new investors were being used to pay earlier investors. The findings stated that Behrens did not disclose in writing to his member firm that he was selling the notes to investors, and his member firm did not provide written approval for him to do so. The findings also stated that Behrens failed to respond to FINRA requests for information. (FINRA Case #2007011249401)

Gary Robert Black (CRD #4232375, Registered Representative, Fort Wayne, Indiana) submitted an Offer of Settlement in which he was suspended from association with any FINRA member in any capacity for two months. In light of Black's financial status, no monetary sanctions were imposed. Without admitting or denying the allegations, Black consented to the described sanction and to the entry of findings that he forged public school teachers' signatures on enrollment forms for a state retirement program and submitted the forms with the forgeries to the retirement program for processing.

The suspension in any capacity is in effect from October 6, 2008, through December 5, 2008. (FINRA Case #2007008266901)

Constance Farnsworth Bladon (CRD #728860, Registered Supervisor, Tampa, Florida) submitted a Letter of Acceptance, Waiver and Consent in which she was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Bladon consented to the described sanction and to the entry of findings that she failed to comply with FINRA requests to testify at an on-the-record interview. (FINRA Case #2007009431201)

Kerry Lane Bryan (CRD #4495856, Registered Representative, Maryville, Tennessee) submitted an Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Bryan consented to the described sanction and to the entry of findings that he misappropriated at least \$100,000 from a charitable organization affiliated with his member firm by issuing checks made payable to himself or "cash" from the organization's bank account. The findings stated that Bryan's actions were taken without the organization's knowledge, authorization or consent, and he utilized the misappropriated funds for personal expenses. The findings also stated that Bryan failed to respond completely to FINRA requests for information and documents. (FINRA Case #2007007580301)

Stacey Lynn Budd (CRD #5256215, Registered Representative, Huntington Woods, Michigan) submitted a Letter of Acceptance, Waiver and Consent in which she was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Budd consented to the described sanction and to the entry of findings that she used public customers' automatic teller machine (ATM) card to withdraw \$7,000 from their bank checking account without their permission and consent. (FINRA Case # 2007011294601)

Richard P. Buss (CRD #2178688, Registered Representative, West Bend, Wisconsin) submitted an Offer of Settlement in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the allegations, Buss consented to the described sanction and to the entry of findings that he instructed a public customer to sign blank checks from her money market account to purchase unspecified investments, but converted the funds totaling \$271,975 from her account to pay his credit card bills and other personal expenses without the customer's knowledge or permission. The findings stated that Buss instructed another public customer's trustee to sign checks totaling \$163,500 for unspecified investments for the customer's benefit, but used the funds to pay credit card bills. The findings also stated that Buss instructed the trustee to sign account checks totaling \$407,000, which were used to pay initial and annual insurance premiums for unrelated customers and for which Buss received \$47,000 in commissions. The findings also included that Buss failed to respond to FINRA requests for information. **(FINRA Case #2006005732801)**

Jeramie J. Crabtree (CRD #5259300, Registered Principal, Pleasant Grove, Utah) submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Crabtree consented to the described sanction and to the entry of findings that he forged individuals' signatures and falsified some of the information on insurance applications to generate commissions from the transactions and to qualify for sales contests that his member firm's insurance company affiliate sponsored. The findings stated that in some instances, the individuals had not authorized Crabtree to sign the applications or to purchase life insurance on their behalf. **(FINRA Case #2008013865901)**

Lace Anne Daniels (CRD #1688213, Registered Principal, Indian Trail, North Carolina) was barred from association with any FINRA member in any capacity. The sanction was based on findings that Daniels induced her branch office's comptroller to issue her a \$22,000 check, falsely representing that the branch manager had approved that amount as a bonus by providing an unsigned compensation agreement and falsely stating that the manager had forgotten to sign the form, thereby converting the funds to her own use without her member firm's knowledge or consent. The findings stated that Daniels accessed the branch office's payroll program and ordered the payment of \$5,527 to herself without her firm's knowledge or consent. The findings also stated that Daniels failed to respond to FINRA requests for information. **(FINRA Case #2006007089902)**

Roxanne Lynn Doty (CRD #4954811, Registered Representative, Mesa, Arizona) submitted a Letter of Acceptance, Waiver and Consent in which she was fined \$10,000 and suspended from association with any FINRA member in any capacity for 13 months. The fine is due and payable either immediately upon reassociation with a member firm following her suspension or prior to any request for relief from any statutory disqualification resulting from this or any other event or proceeding, whichever is earlier. Without admitting or denying the findings, Doty consented to the described sanctions and to the entry of findings that she borrowed \$22,500 from a public customer contrary to her member firm's written procedures prohibiting its employees from borrowing funds from, or lending funds to, a public customer under any circumstances. The findings stated that Doty did not request or obtain permission

from her member firm but repaid the loan with interest. The findings also stated that Doty submitted a false statement to her firm regarding the loan although she later provided a truthful account.

The suspension in any capacity is in effect from October 6, 2008, through November 5, 2009. **(FINRA Case #2007008714301)**

Dena Meacham Fisher (CRD #2701287, Registered Principal, Highlands Ranch, Colorado) submitted a Letter of Acceptance, Waiver and Consent in which she was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Fisher consented to the described sanction and to the entry of findings that she sought and received reimbursement for more than \$9,400 from her member firm to which she was not entitled, thereby misappropriating her member firm's funds for her own use. The findings stated that Fisher falsified expense reports, causing her firm's books and records to be false. **(FINRA Case #2008012913001)**

Roberto Giovanni Gatti (CRD #1925676, Registered Principal, Franklin Lakes, New Jersey) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$100,000, which includes disgorgement of commissions, and suspended from association with any FINRA member in any capacity for three months. In light of Gatti's financial status, a \$100,000 fine was imposed. The fine must be paid either immediately upon Gatti's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Gatti consented to the described sanctions and to the entry of findings that he charged unfair and excessive commissions on Treasury and fixed income trades for corporate trust customers of his member firm's bank.

The suspension in any capacity is in effect from October 6, 2008, through January 5, 2009. **(FINRA Case #2008013294101)**

Lee Alexander Gold (CRD #1923251, Registered Principal, Rocky Point, New York) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for 40 days. Without admitting or denying the findings, Gold consented to the described sanctions and to the entry of findings that he settled a customer complaint outside of his member firm without immediately informing his firm or obtaining its consent to do so.

The suspension in any capacity was in effect from October 6, 2008, through November 14, 2008. **(FINRA Case #2006006719101)**

Andrew Paul Gonchar (CRD #1659516, Registered Representative, Staten Island, New York) and Polyvios Tony Polyviou (CRD #1659532, Registered Representative, Upper Saddle River, New Jersey) were each fined \$114,022 and barred from association with any FINRA member in any capacity. The National Adjudicatory Council (NAC) imposed the sanctions following appeal of an Office of Hearing Officers (OHO) decision. The sanctions were based on findings that Gonchar and Polyviou fraudulently interpositioned a third-party account between their member firm and retail customers in convertible bond trades and charged the customers undisclosed fraudulently excessive markups.

This decision has been appealed to the SEC and the bars are in effect pending consideration of the appeal. (FINRA Case #CAF20040058)

David Wayne Gwynn (CRD #1699887, Registered Principal, Eugene, Oregon) submitted an Offer of Settlement in which he was suspended from association with any FINRA member in any capacity for 10 business days. In light of Gwynn's financial status, no monetary sanctions were imposed. Without admitting or denying the allegations, Gwynn consented to the described sanction and to the entry of findings that he exercised discretionary authority in a public customer's account without the customer's prior written authorization to exercise discretion and without his member firm's acceptance of the account as discretionary.

The suspension in any capacity was in effect from October 6, 2008, through October 17, 2008. (FINRA Case #2006006808001)

Brent Allen Hines (CRD #3242314, Registered Representative, Parker, Colorado) submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Hines consented to the described sanction and to the entry of findings that he failed to respond to a FINRA request for information and documents. (FINRA Case #2008014410501)

Jophlin Devon Johnson (CRD #4486919, Associated Person, Irving, Texas) was barred from association with any FINRA member in any capacity. The sanction was based on findings that Johnson willfully failed to disclose material information on his Form U4. The findings stated that Johnson failed to respond to FINRA requests for information. (FINRA Case #2006005692701)

Legare Minott Johnson (CRD #1480395, Registered Representative, Awenda, South Carolina) was barred from association with any FINRA member in any capacity. The sanction was based on findings that Johnson failed to respond to FINRA requests for information. (FINRA Case #2006007502601)

Cindy Lee Kontorowicz (CRD #5373828, Registered Representative, Hamilton, New Jersey) submitted a Letter of Acceptance, Waiver and Consent in which she was fined \$5,000 and suspended from association with any FINRA member in any capacity for three months. The fine must be paid either immediately upon Kontorowicz' reassociation with a FINRA member firm following her suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Kontorowicz consented to the described sanctions and to the entry of findings that she signed her manager's signature, without authorization or consent, on an income verification form that she submitted to a lender when applying for a personal mortgage loan.

The suspension in any capacity is in effect from October 6, 2008, through January 5, 2009. (FINRA Case #2008012473001)

Carlos Lopez III (CRD #5345944, Registered Representative, El Paso, Utah) submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Lopez consented to the described sanction and to the entry of findings that he took \$398.26 in public customer bank funds and converted the funds for his personal use. The findings stated that Lopez assisted a public customer by telephone with renewal and rollover of certificate of deposit (CD) funds for which the customer mistook the amount, and acting without the customer's knowledge or consent, Lopez took the \$100 difference and used it for his own benefit or some benefit other than that of the customer. The findings also stated that Lopez, without another public customer's knowledge and consent, opened a checking account in the customer's name, used the banking center address as the mailing address for the account, and created an ATM card for access to the account and withdrew \$126.45 from the account at a non-affiliated bank for his own benefit. The findings also included that Lopez assisted a third public customer by telephone with rolling over a CD prior to maturity and advised the customer that there would be a \$171.81 penalty fee. FINRA found that Lopez renewed the CD without a penalty fee, resulting in \$171.81 less being rolled over, which Lopez used for his own benefit. **(FINRA Case # 2008013774201)**

Jordan Dean Main (CRD #4520794, Registered Representative, South Lyon, Michigan) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for four months. Without admitting or denying the findings, Main consented to the described sanctions and to the entry of findings that he engaged in private securities transactions and failed to give written notice of his intention to participate in the proposed transactions and to receive written acknowledgement of said notice.

The suspension in any capacity is in effect from October 6, 2008, through February 5, 2009. **(FINRA Case #2006006357701)**

Carl McCaskill (CRD #1345072, Registered Representative, New York, New York) was barred from association with any FINRA member in any capacity and ordered to reimburse a public customer \$109,000, plus interest. The sanction was based on findings that McCaskill borrowed \$159,000 from a public customer in breach of his member firm's policies and procedures prohibiting borrowing money from customers without prior written approval. The findings stated that McCaskill failed to respond to requests for information from FINRA and the New York Stock Exchange, LLC. **(FINRA Case #2007009417801)**

Riley Kenneth McHugh (CRD #836722, Registered Principal, Reno, Nevada) submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, McHugh consented to the described sanction and to the entry of findings that he participated in private securities transactions without prior written notice to, or prior written approval from, his member firm. The findings stated that McHugh failed to respond to FINRA requests for information and documents. **(FINRA Case #2007008143401)**

Steven Fisher Mosshart (CRD #1504071, Registered Representative, Troy, Michigan) submitted an Offer of Settlement in which he was suspended from association with any FINRA member in any capacity for one year and ordered to pay \$905,000, plus interest, in restitution to public customers. The restitution amounts are due and payable either immediately upon reassociation with a member firm following his suspension or prior to any request for relief from any statutory disqualification resulting from this or any other event or proceeding, whichever is earlier. Without admitting or denying the allegations, Mosshart consented to the described sanctions and to the entry of findings that he engaged in private securities transactions and failed to give written notice to, and receive written acknowledgement from, his member firm. The findings stated that Mosshart borrowed funds from public customers contrary to his member firm's prohibition from borrowing from customers. The findings also stated that Mosshart completed and submitted questionnaires to his firm that were false and misleading, in that he represented that he had not borrowed money from firm customers.

The suspension in any capacity is in effect from October 6, 2008, through October 5, 2009. **(FINRA Case #2005001798201)**

Thomas James Mulvey Jr. (CRD #1851436, Registered Representative, Lincoln, Rhode Island) submitted an Offer of Settlement in which he was fined \$10,000 and suspended from association with any FINRA member in any capacity for three months. Without admitting or denying the allegations, Mulvey consented to the described sanctions and to the entry of findings that he effected unauthorized transactions in a public customer's account, liquidating all of the customer's mutual fund shares and then investing \$75,000 in proceeds in a variable annuity. The findings stated that the customer had not given Mulvey discretionary authorization or power of attorney over the account. The findings also stated that Mulvey falsely certified on a firm form that he had obtained identification information directly from the customer and verified that the information was accurate. The findings also included that Mulvey inserted false information on the form and submitted it to his member firm, causing the firm to maintain a false record.

The suspension in any capacity is in effect from October 6, 2008, through January 5, 2009. **(FINRA Case #2006007021201)**

Nicholas Anthony Natale (CRD #1588810, Registered Principal, Delray Beach, Florida) was fined \$90,000 and barred from association with any FINRA member in any principal capacity. The sanctions were based on findings that Natale failed to ensure that his member firm complied with the Taping Rule requirements under NASD Rule 3010(b)(2). The findings stated that Natale failed to ensure that firm research analysts had passed the qualifying examinations before they published research reports. The findings also stated that Natale failed to file amended Forms U4 for registered representatives of the firm in response to written customer complaints the firm received. The findings also included that Natale failed to report, or to timely report, customer complaints to FINRA. **(FINRA Case #E072005005401)**

Ara Proudian (CRD #2488729, Registered Principal and Representative, New Rochelle, New York) was fined \$25,000, suspended from associating with any FINRA member in any capacity for one year and ordered to requalify in all capacities prior to reassociating with any FINRA member. The NAC imposed the sanctions following a call for review of an OHO decision. The sanctions were based on findings that Proudian aided and abetted a market manipulation of a stock by entering buy and sell orders for the stock at the direction of others, with the vast majority of the orders being crossed or effectively matched to permit his member firm's continued control of the market for the security. The findings stated that Proudian recklessly abdicated his duty to investigate his member firm's trading and closed his eyes to the circumstances indicative of a scheme to create the false appearance of an independent market.

The suspension in any capacity is in effect from October 6, 2008, through October 6, 2009. **(FINRA Case #CMS040165/20050006311)**

Guadalupe Rivera (CRD #4916520, Registered Representative, Brooklyn, New York) submitted a Letter of Acceptance, Waiver and Consent in which she was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Rivera consented to the described sanction and to the entry of findings that, while she was employed as a licensed personal banker and registered with a member firm, she used the bank's systems to obtain information regarding a public customer and his money market account. The findings stated that, without the customer's prior knowledge or authorization, Rivera used the information to withdraw \$50,000 from the customer's account for her personal use and benefit, and failed to return any of the funds to the customer or reimburse her firm after it repaid the customer. The findings also stated that Rivera failed to fully respond to FINRA requests for documents and information. **(FINRA Case #2007010853701)**

Ruben Garcia Rojas (CRD #5431331, Associated Person, Tieton, Washington) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$7,500 and suspended from association with any FINRA member in any capacity for four months. The fine must be paid either immediately upon Rojas' reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Rojas consented to the described sanctions and to the entry of findings that he willfully failed to disclose material facts on his Form U4.

The suspension in any capacity is in effect from October 6, 2008, through February 5, 2009. **(FINRA Case #2007010993301)**

Barry Ray Stokes (CRD #2128600, Registered Representative, Dickson, Tennessee) submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Stokes consented to the described sanction and to the entry of findings that he failed to respond to FINRA requests for documents and information. **(FINRA Case #2006006445202)**

Michael Owen Traynor (CRD #1104964, Registered Principal, Bradenton, Florida) submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Traynor consented to the described sanction and to the entry of findings that he received a \$100,000 check from public customers to purchase life insurance policies, and, without the customers' authorization or consent, deposited the check into a corporate bank account he controlled, and withdrew and transferred funds from the account for purposes other than the customers' intentions. **(FINRA Case #2007008015301)**

Bruce Arthur Tucker (CRD #2369029, Registered Representative, Delray Beach, Florida) submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Tucker consented to the described sanction and to the entry of findings that he made recommendations to public customers to open accounts with his member firm and invest in collateralized mortgage obligation (CMO) securities without having reasonable grounds for believing that his recommendations were suitable based on the customers' financial situations and needs. The findings stated that Tucker made misstatements of material fact and omitted material facts in connection with the CMO recommendations. The findings also stated that Tucker delegated the authority to another representative to utilize his discretion to select particular CMO investments for his customers, decide how much of the security his customers would buy and when, and decide how much margin borrowing would be utilized to purchase the CMOs, without obtaining written authorization from his clients and a firm principal to authorize Tucker or another representative to exercise discretion in any of the accounts. **(FINRA Case #2006005546005)**

Kelly Demetrius Wright (CRD #2062526, Registered Principal, Chicago, Illinois) submitted an Offer of Settlement in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the allegations, Wright consented to the described sanction and to the entry of findings that he exercised discretion in effecting stock and option transactions in public customers' accounts without the customers' prior written authorization and without his member firm's acceptance of the accounts as discretionary. The findings stated that Wright engaged in unsuitable and excessive trading strategies in customers' accounts in view of their financial situations and investment objectives. The findings also included that, in pursuing the aggressive trading strategy in the customers' accounts, Wright acted with intent to defraud or with reckless disregard for the customers' best interest in order to generate commissions. FINRA found that Wright, directly or indirectly, in connection with the purchase or sale of securities, by the use of means or instrumentalities of interstate commerce or of the mails, employed devices, schemes or artifices to defraud; made untrue statements of material fact or omitted to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; and engaged in acts, practices or courses of business that operated, or would operate, as a fraud or deceit upon purchasers or prospective purchasers. FINRA also found that Wright engaged in outside business activity, outside the scope of his relationship with his member firm, and without prior written notice to the firm. **(FINRA Case #2005000346102)**

Mary Ann Yzaguirre aka Mary Ann Vargas (CRD #1357782, Associated Person, San Antonio, Texas) was barred from association with any FINRA member in any capacity. The sanction was based on findings that, in her role in her member firm's cashiering department, she systematically misappropriated \$45,500 by engaging in a check kiting scheme. The findings stated that Yzaguirre deposited personal checks backed by insufficient funds into her personal firm accounts and improperly coded the checks on the firm's system so that she could have same-day access to the funds, thereby creating artificial balances in her firm accounts that caused the firm to sustain significant losses when her scheme ultimately collapsed. The findings also stated that Yzaguirre made false entries in her firm's books and records to effectuate her scheme. **(FINRA Case #2007010840401)**

Joseph Andrew Zaragoza Jr. (CRD #2417735, Registered Representative, Chicago, Illinois) was barred from association with any FINRA member in any capacity. The NAC imposed the sanctions following appeal of a hearing panel decision. The sanction was based on findings that Zaragoza engaged in excessive trading in a public customer's account that was inconsistent with the customer's investment objectives and financial situation and was thus unsuitable. The sanction was also based on findings that stated that Zaragoza exercised discretion in the customer's account without prior written authorization from the customer and written notice to his member firm and that he failed to submit pieces of email correspondence to his firm for review and approval. The NAC also found that Zaragoza engaged in outside business activities, for compensation, and failed to provide his member firm with written notice. The NAC declined to impose a sanction for this violation because of the bar imposed for the other violations. **(FINRA Case #E8A2002109804)**

Nancy Robyn Ziering (CRD # 2845746, Registered Representative, Chatham, New Jersey) submitted a Letter of Acceptance, Waiver and Consent in which she was fined \$60,000 (including disgorgement of \$32,720 in commissions paid to her for unsuitable transactions) and suspended from association with any FINRA member in any capacity for nine months. The fine must be paid either immediately upon Ziering's reassociation with a FINRA member firm following her suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Ziering consented to the described sanctions and to the entry of findings that she used communications with public customers, in the form of written financial plans, that contained misleading statements and omitted material information. The findings stated that Ziering failed to obtain approval from her firm to use the communications with clients and failed to arrange for the communications to be filed with FINRA. The findings also stated that Ziering recommended variable universal life (VUL) insurance policies to public customers that were not suitable based on each customer's financial situation and needs. The findings also included that Ziering dealt unfairly with these public customers in recommending the funding of VUL policies in amounts that were inconsistent with the reasonable expectation that the customers had the financial ability to meet such a commitment.

The suspension in any capacity is in effect from October 6, 2008, through July 5, 2009. **(FINRA Case #2006006364301)**

Decisions Issued

The Office of Hearing Officers (OHO) issued the following decisions, which have been appealed to or called for review by the NAC. The NAC may increase, decrease, modify or reverse the findings and sanctions imposed in the decision. Initial decisions where the time for appeal has not yet expired will be reported in future *FINRA Notices*.

Gerald Jamieson Kesner (CRD #2337113, Registered Representative, Lakewood, Colorado) was barred from association with any FINRA member in any capacity. Hearing costs are due and payable when, and if, Kesner seeks to return to the securities industry. The sanction was based on findings that Kesner failed to disclose material information to public customers and other investors regarding the acquisition of securities and membership interests in a company. The findings stated that Kesner's recommendations to the customers were unsuitable based on their financial situation and needs.

This decision has been appealed to the NAC, and the sanction is not in effect pending consideration of the appeal. **(FINRA Case #2005001729501)**

John Michael Elias Saad (CRD #2185911, Registered Principal, Atlanta, Georgia) was barred from association with any FINRA member in any capacity. The sanction was based on findings that Saad submitted false expense reports and receipts to his member firm's parent company, resulting in \$1,144.63 payments to him, to which he was not entitled.

This decision has been appealed to the NAC and the sanction is not in effect pending consideration of the appeal. **(FINRA Case #2006006705601)**

Complaint Filed

FINRA issued the following complaints. Issuance of a disciplinary complaint represents FINRA's initiation of a formal proceeding in which findings as to the allegations in the complaint have not been made and does not represent a decision as to any of the allegations contained in the complaint. Because these complaints are unadjudicated, you may wish to contact the respondents before drawing any conclusions regarding these allegations in the complaint.

Doria Sabia-Forence (CRD #1136269, Registered Representative, Statesboro, Georgia) was named as a respondent in a FINRA complaint alleging that she completed and submitted Letters of Authorization (LOAs) directing cash transfers totaling \$80,100 from public customers' accounts to unrelated accounts, without the customers' consent or knowledge. The complaint alleges that after the transfers were completed, \$71,500 of the transferred funds were delivered to Florence in the form of checks, which she deposited into her personal bank account and used for her personal benefit. The complaint also alleges that Florence induced a public customer to give her \$30,000 by falsely representing that she would use the funds to purchase a bond for the customer's account but, instead, deposited the funds into her personal banking account and used them for her personal benefit. **(FINRA Case #2007008458901)**

Firms Suspended for Failure to Supply Financial Information Pursuant to NASD Rule 9552

(The date the suspension began is listed after the entry. If the suspension has been lifted, the date follows the suspension date.)

One Financial Securities, Ltd.
Houston, Texas
(September 8, 2008)

Quantum Securities, Inc.
Boca Raton, Florida
(April 10, 2008 – September 22, 2008)

S&F Securities, LLC
Winter Park, Florida
(September 8, 2008)

Westor Capital Group, Inc.
Mohawk, New York
(May 9, 2008 – September 5, 2008)

Individuals Revoked for Failing to Pay Fines and/or Costs Pursuant to NASD Rule 8320

Robert Edward Grady
Melville, New York
(September 26, 2008)

William Anthony Kaso
Pembroke Pines, Florida
(September 26, 2008)

Warren Elroy Lystrup
Goodyear, Arizona
(September 9, 2008)

Bryan Edward Muller
Seaford, New York
(September 24, 2008)

Joseph Tancretti Pagano Jr.
Massapequa, New York
(September 26, 2008)

Jeffrey Scott Ramson
New York, New York
(September 23, 2008)

Individuals Barred Pursuant to NASD Rule 9552(h)

(If the bar has been vacated, the date follows the bar date.)

Stacy Noel Famageltto
Aurora, Ohio
(September 29, 2008)

Rex Eugene Peterson
Muskogee, Oklahoma
(September 15, 2008)

Anthony Antwon Reed
Pontiac, Michigan
(September 23, 2008)

Stephen Wesley Taylor
Sneads Ferry, North Carolina
(September 23, 2008)

**Individuals Suspended Pursuant to
NASD Rule 9552(d)**

(The date the suspension began is listed after the entry. If the suspension has been lifted, the date follows the suspension date.)

Richard Steven Blumstein
Fort Lauderdale, Florida
(July 7, 2008 – September 15, 2008)

Mark Allen Butler
Chicago, Illinois
(September 29, 2008)

John Joseph Callahan Jr.
Lagrangeville, New York
(September 2, 2008)

Charles Roland Douglass Jr.
Union, South Carolina
(September 8, 2008)

John Munsuk Lee
Fort Lee, New Jersey
(September 15, 2008)

Pamela Louise Mirabella
Salem, Massachusetts
(September 29, 2008)

Denise L. Wilms
Eastpointe, Michigan
(September 2, 2008)

**Individuals Suspended Pursuant to
NASD Rule Series 9554 for Failure to
Comply with an Arbitration Award or
Settlement Agreement**

(The date the suspension began is listed after the entry. If the suspension has been lifted, the date follows the suspension date.)

Christopher W. Becker
Marlton, New Jersey
(September 15, 2008)

Frank Richard Bell
Bradenton, Florida
(September 11, 2008)

Ernesto J. Casco
Miami, Florida
(September 11, 2008)

Thomas Anthony Gallo
Shrewsbury, New Jersey
(April 11, 2006 – September 17, 2008)

David Michael Homer
Los Gatos, California
(September 12, 2008)

Jose Rafael Mirabal
Weston, Florida
(September 11, 2008)

Gene Paul Ramos
Jersey City, New Jersey
(September 11, 2008)

David Alexander Ricca
Clifton, New Jersey
(September 11, 2008)

Joseph John Sherrick Jr.
Mount Airy, Maryland
(September 24, 2008)

Jason Scott Woessner
Boca Raton, Florida
(September 15, 2008)